

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANTHONY GEORGE ALLEN,)	
)	Electronically filed
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 05-31E
)	
UNITED STATES OF AMERICA)	Judge Sean J. McLaughlin
)	Magistrate Judge Susan
)	Paradise Baxter
Defendant.)	

**DEFENDANT'S NOTICE OF SUBSTITUTION OF EXHIBIT B TO
MEMORANDUM IN SUPPORT OF ITS MOTION TO DISMISS COMPLAINT
OR, IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGEMENT**

AND NOW COMES Defendant, the United States of America, by and through its undersigned attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Jessica Lieber Smolar, Assistant United States Attorney for the Western District of Pennsylvania, and Submits this Notice of Substitution to allow the substitution of a revised document attached as Exhibit 2 to the *Memorandum in Support of its Motion to Dismiss Complaint Or, in the Alternative, Motion for Summary Judgement*, which was previously electronically filed.

1. On July 7, 2005, Defendant electronically filed its *Motion to Dismiss Complaint or, In The Alternative, Motion for Summary Judgement* in the above-captioned matter. This document is listed on the Court's Docket Sheet as Document number 10.

2. In addition, on July 7, 2005, Defendant also electronically filed a *Memorandum in Support of Its Motion to Dismiss Complaint or, in the Alternative, Motion for Summary Judgment* (hereinafter Memorandum) with attachments. This document is listed on the Court's Docket Sheet as Document Number 11.

3. An exhibit to the Memorandum, listed as "Document 2", was a Declaration of Joyce Horikawa dated June 20, 2005.

4. The June 20, 2005 Declaration of Joyce Horikawa was inadvertently attached as an Exhibit to the Memorandum. A revised Declaration should have been attached.

5. Attached to this Motion is the replacement "Document 2" which is a Declaration of Joyce Horikawa dated July 5, 2005.

6. The substitution of the updated Declaration will not cause Plaintiff any harm or prejudice.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney

/s/ Jessica Lieber Smolar
JESSICA LIEBER SMOLAR
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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that DEFENDANT'S MOTION TO SUBSTITUTE was served this _11th____ day of July, 2005, via United States first-class, postage pre-paid mail or by electronic means, on:

Anthony George Allen
Register No. 40420-053
FCI McKean
P.O. Box 8000
Bradford, PA 16701

/s/Jessica Lieber Smolar
JESSICA LIEBER SMOLAR
Assistant U.S. Attorney